

House File 630 - Introduced

HOUSE FILE 630

BY STECKMAN

A BILL FOR

1 An Act relating to the use of a handheld electronic
2 communication device to engage in a call while operating a
3 motor vehicle, and making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.276, Code 2011, is amended to read
2 as follows:

3 **321.276 Use of electronic communication device while driving**
4 ~~text-messaging.~~

5 1. For purposes of this section:

6 a. *"Engage in a call"* means talking or listening on a mobile
7 telephone or other portable electronic communication device.

8 b. *"Hand-held electronic communication device"* means a mobile
9 telephone or other portable electronic communication device
10 capable of being used to write, send, or read a text message
11 or engage in a call. *"Hand-held electronic communication*
12 *device"* does not include a voice-operated or hands-free device
13 which allows the user to write, send, or read a text message
14 or engage in a call without the use of either hand except
15 to activate or deactivate a feature or function. *"Hand-held*
16 *electronic communication device"* does not include a wireless
17 communication device used to transmit or receive data as
18 part of a digital dispatch system. *"Hand-held electronic*
19 *communication device"* includes a device which is temporarily
20 mounted inside the motor vehicle, unless the device is a
21 voice-operated or hands-free device.

22 c. *"Text message"* includes a text-based message, an instant
23 message, and electronic mail.

24 d. The terms *"write"*, *"send"*, and *"read"*, with respect
25 to a text message, mean the manual entry, transmission, and
26 retrieval of a text message, respectively, to communicate with
27 any other person or device.

28 2. A person shall not use a hand-held electronic
29 communication device to write, send, or read a text message or
30 engage in a call while driving a motor vehicle unless the motor
31 vehicle is at a complete stop off the traveled portion of the
32 roadway.

33 a. A person does not violate this section by using a global
34 positioning system or navigation system ~~or when, for the~~
35 ~~purpose of engaging in a call, the person selects or enters a~~

1 ~~telephone number or name in a hand-held mobile telephone or~~
2 ~~activates, deactivates, or initiates a function of a hand-held~~
3 ~~mobile telephone.~~

4 *b.* The provisions of this subsection relating to reading
5 a text message or engaging in a call do not apply to the
6 following persons:

7 (1) A member of a public safety agency, as defined in
8 section 34.1, performing official duties.

9 (2) A health care professional in the course of an emergency
10 situation.

11 (3) A person receiving safety-related information including
12 emergency, traffic, or weather alerts.

13 3. Nothing in this section shall be construed to authorize a
14 peace officer to confiscate a portable electronic communication
15 device from the driver or occupant of a motor vehicle.

16 4. *a.* A person convicted of a violation of this section
17 is guilty of a simple misdemeanor punishable as a scheduled
18 violation under section 805.8A, subsection 14, paragraph "1".

19 *b.* A violation of this section shall not be considered a
20 moving violation for purposes of this chapter or rules adopted
21 pursuant to this chapter.

22 5. *a.* A peace officer shall not stop or detain a person
23 solely for a suspected violation of this section. This section
24 is enforceable by a peace officer only as a secondary action
25 when the driver of a motor vehicle has been stopped or detained
26 for a suspected violation of another provision of this chapter,
27 a local ordinance equivalent to a provision of this chapter,
28 or other law.

29 *b.* ~~For the period beginning July 1, 2010, through June 30,~~
30 ~~2011, peace officers shall issue only warning citations for~~
31 ~~violations of this section.~~ The department, in cooperation
32 with the department of public safety, shall establish
33 educational programs to foster compliance with the requirements
34 of this section.

35 Sec. 2. Section 805.8A, subsection 14, paragraph 1, Code

1 2011, is amended to read as follows:

2 1. ~~Text-messaging~~ Use of electronic communication device
3 while driving violations. For violations under section 321.276,
4 the scheduled fine is thirty dollars.

5 EXPLANATION

6 This bill prohibits a person from using a hand-held
7 electronic device to engage in a call while operating a motor
8 vehicle unless the motor vehicle is at a complete stop off the
9 traveled portion of the roadway. Pursuant to current law,
10 "engage in a call" is defined as talking or listening on a
11 mobile telephone or other portable electronic communication
12 device. "Hand-held electronic communication device" is defined
13 by the bill as a mobile telephone or other portable electronic
14 communication device capable of being used to write, send,
15 or read a text message or engage in a call. The definition
16 excludes voice-operated and hands-free devices and devices
17 used as part of a digital dispatch system. A device which is
18 temporarily mounted inside a vehicle is considered to be a
19 hand-held device unless it is a voice-operated or hands-free
20 device.

21 The bill exempts the following persons from the prohibition
22 on engaging in a call on a hand-held electronic device while
23 driving: a member of a public safety agency performing
24 official duties; a health care professional in the course of
25 an emergency situation; and a person receiving safety-related
26 information including emergency, traffic, or weather alerts.

27 Like the existing prohibition on texting while driving, the
28 prohibition on engaging in a call on a hand-held electronic
29 device is enforceable only as a secondary action when a driver
30 has been stopped or detained for a suspected violation of
31 another law. The bill does not authorize a peace officer to
32 confiscate a portable electronic communication device from a
33 driver or occupant of a motor vehicle.

34 The penalties for engaging in a call on a hand-held
35 electronic device while driving are the same penalties

1 currently applicable for texting while driving. A violation
2 is a simple misdemeanor punishable by a scheduled fine of \$30.
3 The offense is not a moving violation, and therefore cannot
4 be considered for purposes of administrative suspension of a
5 driver's license or to establish habitual offender status.
6 In addition, if a violation causes a serious injury, a court
7 could impose an additional fine of \$500 or suspend the person's
8 driver's license for not more than 90 days, or both. If the
9 violation causes a death, a court could impose an additional
10 fine of \$1,000 or suspend the person's driver's license for not
11 more than 180 days, or both.

12 The bill affects motor vehicle operators who are 18 years of
13 age or older and operators who are 17 years of age with a full
14 driver's license. Under current law, all other motor vehicle
15 operators under 18 years of age are prohibited from using an
16 electronic communication device or an electronic entertainment
17 device while driving.